91-333

No. _____

IN THE -

SUPREME COURT OF THE UNITED STATES

_____TERM, 1991

RONALD W. GREGORY and DOROTHY L. GREGORY,

Petitioners,

vs.

FRONTIER MATERIALS, INC.; U. S. TRUSTEE; ST. VRAIN LEFT HAND WATER CONSERVANCY DISTRICT; FRONTIER AIRLINES FEDERAL CREDIT UNION; FIRST FEDERAL SAVINGS BANK OF OKLAHOMA; GRANGE MUTUAL LIFE CO.; BOULDER COUNTY, COLORADO; E.H.M.G. CONSULTANTS; ROSS J. WABEKE, Interim Trustee of Estate,

Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Ronald W. Gregory
Dorothy L. Gregory
Pro Se
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P.O. Box 29773
Thornton, CO 80229-0773

Dated: April 25, 1991

80

QUESTIONS PRESENTED

1. Did the Bankruptcy Court, wherein additional debt of $215,000 was authorized in a Settlement Agreement, the creation of a new lien, and the creation of a new creditor, violate the intent of, and the Law of, Title 11 of the United States Code, Section 362?

2. If the Bankruptcy Court did not violate 11 USC 362, then did the Court, not in accordance with Law, grant Petitioners adversary, Frontier Materials, Inc. favored status over other creditors, creating an illegal creditor and granting this illegal creditor 'insider' status?

3. Did personal prejudice and bias, as held by the trial judge, violate the "impartial and fair trial" proviso of the Fourteenth Amendment to the United States Constitution and the ethical judicial

requirement to recuse under 28 USCS 455, prior to entering rulings and destroying the ability to reorganize pursuant to the Congressional intent of Title 11 of the United States Code?

4. Did the United States Bankruptcy Court violate Due Process by depriving Petitioners "standing" to be heard and to act to protect their property and rights pursuant to the First, Fifth and Fourteenth Amendments to the United States Constitution?

5. Did the intentional denial by United States District Court, of appeal from conversion, and ruling in accordance with the written suggestion of the Bankruptcy Court, and in violation of the Rules, constitute a conspiratorial act between the United States District Court Judge and the United States Bankruptcy

Court within the meaning of 18 USCS 241 and 18 USC 245?

6. Did the Bankruptcy Court, on December 9, 1988, when ruling for purchase by Frontier Materials, Inc. fail to consider the true value of the reorganization property as clearly outline by Frontier Materials, Inc. Chief Executive Officer, and act in reversible error and abuse its discretion while influenced by personal prejudice and bias?

7. Did the United States District Court act pursuant to law by its reference to the Bankruptcy Court of a removed action from Colorado State Court wherein a jury trial was demanded pursuant to the Seventh Amendment to the United States Constitution, yet was thereby denied?

8. Did the United States Bankruptcy

Court violate Petitioners due process rights pursuant to the Fifth and Fourteenth Amendment to the United States Constitution by "threatening" Petitioners with sanctions, when acting in their defense, they filed papers to protect their property and rights?

9. Did the Bankruptcy Court and the Trustee violate the law by forcing insolvency upon Debtors, when, on January 21, 1986, the date of filing Bankruptcy Petition, they had less than $900,000.00 in debt and more than $3,000,000.00 in assets?

10. Is the Bankruptcy Court for the District of Colorado performing its prescribed function, as intended by law, or is it acting to defeat the purpose and intent of Title 11 of the Bankruptcy Code, specifically Chapter 11 and Chapter 12

Reorganization?

11. Should this Court order an investigation into Bankruptcy Case 86 B 0476 G and/or 86 B 0476 A, pursuant to 18 USC 3057 and the inherent powers vested in this Court?

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IN THE
SUPREME COURT OF THE UNITED STATES

RONALD W. GREGORY and DOROTHY L. GREGORY,

Petitioners,

vs.

FRONTIER MATERIALS, INC.; U. S. TRUSTEE; ST. VRAIN LEFT HAND WATER CONSERVANCY DISTRICT; FRONTIER AIRLINES FEDERAL CREDIT UNION; FIRST FEDERAL SAVINGS BANK OF OKLAHOMA; GRANGE MUTUAL LIFE CO.; BOULDER COUNTY; E.H.M.C. CONSULTANTS; ROSS J. WABEKE, Interim Trustee of the Estate,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Petitioners, Ronald W. Gregory and Dorothy L. Gregory, pro se, respectfully pray that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Tenth Circuit AFFIRMING the decision of the United States District Court for the District of Colorado which AFFIRMED certain orders of the United States Bankruptcy Court for the District of Colorado, wherein petitioners

rights were materially and detrimentally affected by decisions not in accordance with law or fact, and further, where such rulings were in violation of petitioners' Constitutional rights and privileges.

OPINIONS BELOW

The opinion of the Court of Appeals for the Tenth Circuit, an unpublished written opinion, appears in Appendix A to this Petition. The unpublished written opinion of the United States District Court for the District of Colorado appears in Appendix B to this Petition.

JURISDICTION

The Court of Appeals' Opinion in this matter was filed on August 29, 1990. A timely Petition for Rehearing En Banc was filed on October 8, 1990. The Court of Appeals' denial of the Petition for Rehearing En Banc, which the Court regarded as a Petition for Rehearing, was issued on November 27, 1990 and is set forth in

Appendix C. This Court's jurisdiction is invoked under Title 28, U.S.C. 1254(1). Time parameters for which to file Writ of Certiorari were extended to April 26, 1991.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Title 11 of the United States Code is set forth in Appendix D.

2. Title 15 of the United States Code is set forth in Appendix E.

3. Title 18 of the United States Code is set forth in Appendix F.

4. Amendment One to the United States Constitution is set forth in Appendix G.

5. Amendment Four to the United States Constitution is set forth in Appendix H.

6. Amendment Five to the United States Constitution is set forth in Appendix I.

7. Amendment Seven to the United States Constitution is set forth in Appendix J.

8. Amendment Eight to the United States Constitution is set forth in Appendix K.

9. Amendment Fourteen to the United States Constitution is set forth in Appendix L.

10. Settlement Agreement is set forth in Appendix M.

11. Bankruptcy Court Order approving Settlement Agreement is set forth in Appendix N.

12. Summary of Acts by Frontier Materials, Inc. are set forth in Appendix O.

13. Bankruptcy Rules 2018(a) and 5004(a) are set forth in Appendix P.

14. Federal Rules of Evidence 103; 602; 803 are set forth in Appendix Q.

15. Note from Bankruptcy Court to District Court is set forth in Appendix R.

STATEMENT OF THE CASE

The United States Bankruptcy Court for the District of Colorado had jurisdiction pursuant to Title 11 of the United States Code. The

United States District Court for the District of Colorado had appellate jurisdiction pursuant to original jurisdiction of Title 11 of the United States Code.

Properties held by Petitioners on January 21, 1986.

Petitioners held title to four (4) distinct real properties on January 21, 1986.

1. 115 Acres in Boulder County, Colorado containing 4,000,000 + tons of high quality sand and gravel aggregates ideally suited for the production of concrete and asphalt products with two (2) residences situated thereon. The value of the royalty contract was approximately $1,600,000, residential improvements were appraised at approximately $255,000, augmentation water value of $120,000 for a total minimal value approximating $1,970,000. In addition, the damage value of the hereinafter mentioned "water right destruction" by Western

Paving in 1985 was minimally valued from $50,000 to an expected appraised value of $365,000. Based upon the value of the Frontier Materials, Inc. (hereinafter "Frontier") mining lease of July 1, 1983, together with a guarantee by Frontier to forward 1/3 of the royalty payments to Grange Mutual Life Company (hereinafter "Grange"), a $500,000 loan from Grange was obtained on the property in July 1983. The loan was used to consolidate other loans, among which provided for the later-described commercial property in Wyoming to be unencumbered. On January 21, 1986, the loan was in default.

2. 503 Acres in Craig County, Oklahoma containing approximately 180 acres of farmland and 323 acres in grazing land, with one residential improvement plus other out-buildings. The property had been surveyed for residential-acreage homesites which had been

registered and approved by the county regulatory authorities. The appraised value as a ranching property was Three Hundred Fifty Thousand ($350,000) Dollars. There was no appraisal as to filed homesite development value, 'mineral rights for limestone quarry' or 'oil and gas production' value. On January 21, 1986, the property was encumbered in the amount of $198,000. Said loan was not in default.

3. A retail business in Centennial, Wyoming

a. general store selling groceries, ice cream, gasoline, sporting goods, hardware;

b. Restaurant specializing in family dining, with lounge dispensing cocktails, and package liquor sales;

c. Two (2) rental cabins;

d. Four (4) vacant lots equipped with 'hook-ups' for four (4) mobile homes.

The property, originally purchased for $100,000 as a general store and tire repair facility, was

remodeled into a lounge and restaurant with large natural rock fireplace, the addition of another building to enlarge the general store, the addition of automated gasoline delivery pumps, and a "western facade with boardwalk". The appraised value (most recent) of the property in 1981 was Four Hundred Fifty Thousand ($450,000) Dollars. On January 21, 1986, the property was free and clear of liens after all loans against said property were retired from the above mentioned $500,000 loan proceeds.

4. 39 Acres in Albany County, Wyoming, together with Petitioners home (built in 1978), variously appraised by creditor Frontier Airlines Federal Credit Union appraiser in 1987 at Eighty-eight Thousand ($88,000) Dollars and by Petitioners appraisers in 1981 for the FALCU loan at $171,000 and, after the installation of a wind generator and adding a building addition, Petitioners' appraiser valued it at Two Hundred

Thirty-four Thousand ($234,000) Dollars in 1987. On January 21, 1986, the property was encumbered by two mortgages with a total balance owing of approximately $52,000 not in default.

On January 21, 1986, the Petitioners were financially encumbered to an approximate total of Seven Hundred Fifty Thousand ($750,000) Dollars on assets totalling minimally from approximately $2,735,000, or 27% encumbrance on the total values, to $5,143,000, or 14.5% encumbrance on the enhanced values. Values not included herein are personal assets.

NOTE: The following estate real property value determinations and calculations are derived from the testimony presented by Frontier Materials, Inc. to the Bankruptcy Court on December 2, 1988. It is important to add here that the foregoing asset values are conservative, and the value of the Boulder County, Colorado mining property was clearly established on December 2,

1988, by testimony under oath by Henry Braly, CEO of Frontier Materials, Inc., before Judge Charles E. Matheson. He stated that the mining "royalty" determines the value of property.

During Frontier's application to acquire Petitioners' property Mr. Braly stated "Royalty times tons available equals the value of property" [Transcript December 2, 1988, p.25 l.6,7] [Appellants' Opening Brief (89-F-148) p.15]. Said tonnage" available varied from Frontier's appraisers, (who admittedly didn't examine the property) of 2,400,000 tons to calculations of other geologists who examined the property in depth and who determined the available tonnage as being in excess of 4,000,000 tons. Mr. Braly's 'then' most recent contract for royalty tonnage disclosed, and was testified to, that Frontier was paying One ($1.00) Dollar per ton royalty for aggregate of inferior quality to the Petitioners' aggregate

deposit. Mr. Braly's accurate valuation formula effectively established a value of $2,400,000 minimum, to $4,000,000 plus - on the Petitioners' mineral aggregate deposit - not including improvements and water rights. Therefore, the Petitioners 'real' assets were valued minimally at $3,543,000 - with a 21% encumbrance on the total minimal values, or (using 4,000,000 tons) at $5,143,000 = 14.5% encumbrance on the expanded values.

Additional History.

Western Paving Construction Company.

In August 1980, Petitioner Ronald W. Gregory (hereinafter "lessor") entered into a mining lease with Western Paving Construction Company (hereinafter "Western") to mine sand and gravel, exclusive of all other properties, from the Gregory property in Boulder County, Colorado. Western paid an advance royalty of Sixty Thousand ($60,000) which 'advance' Lessor

secured by a First Deed of Trust on said mining property. The mining royalty agreement provided for; 1) an additional advance payment of Ninety Thousand ($90,000) Dollars after the permit was issued; and 2) was to net the Lessor over a period of five years approximately One Million ($1,000,000) Dollars, before taxes. After significant delay, and unexpectedly during finalizing performance provisos of the mining royalty agreement, it was required by St. Vrain Left Hand Water Conservative District, that Lessor acquire sufficient agricultural irrigating water to augment evaporative loss of ground water due to open pits created by the mining process. Lessor acquired said augmentation water for approximately One Hundred Twenty Thousand ($120,000) Dollars through funds partially borrowed from Longmont National Bank of Longmont, Colorado.

[NOTE: Said loan from Longmont National Bank was paid in full in October 1985, and further, accounts with all other secured creditors were current to January 1, 1986 - except Grange.]

Although Lessor fully performed pursuant to the lease agreement, Western failed and refused to perform pursuant to said agreement. Said refusal deprived Lessor of funds to repay the bank loan received for the augmentation water. Additionally in 1985, Western's mining operations on adjacent property destroyed Lessor's, 9.11 Cubic Feet Per Second, water right, adjudicated in 1908, variously valued from Fifty Thousand ($50,000) Dollars and Three Hundred Sixty-five Thousand ($365,000) Dollars ($1.00 per acre foot). This water right destruction necessitated legal action by Lessor/Petitioner seeking damages from Western in Colorado State Water Court.

Frontier Materials, Inc., lessee since July 1, 1983, intervened, and said litigation was later required by Frontier to be dismissed pursuant to terms (Section 14.) included in the Settlement Agreement [Appendix "M"] as approved by Bankruptcy Judge C. E. Matheson.

Frontier Materials, Inc.

The mining company of Frontier Materials, Inc. expressed an interest in mining Lessor's property and a mining lease agreement was entered into on July 1, 1983, contingent upon Western rescinding the previous agreement. Through return of $60,000, Western rescinded the previous agreement and caused the release of Western's interest in the mining property.

The Frontier/Gregory mining lease agreement provided for, among other conditions; 1) an advance royalty of Seventy-five Thousand ($75,000) Dollars [$60,000 paid to Western and $15,000 for purchase of wind-generated

electrical power plant]; 2) total proceeds to be paid over ten (10) years, averaged, was approximately from One Million Two Hundred Thirty-two Thousand ($1,232,000 @ 2,400,000 tons) Dollars to One Million Five Hundred Eighty Thousand ($1,580,000 @ 4,000,000 tons) Dollars, before taxes, together with; 3) Frontier mining the Gregory property exclusively until all commercial material had been removed, or for 10 years; 4) mining would commence in April 1984. In addition, Lessor pledged to the "Conservancy District" said augmentation water stock.

Frontier failed and refused to perform pursuant to the lease agreement and breached the lease agreement. Further, it had committed to perform a '1/3 royalty payment agreement' to be paid directly to Grange Mutual Life Co. on behalf of Petitioners. Frontier later pursued the verbalized desire to force the Lessor into a 'foreclosure' position whereby it could

acquire the Gregory property without honoring the lease agreement. Through counsel, Lessor Gregory attempted several negotiating meetings but to no avail. Without Frontier providing mining royalties, Petitioners were unable to meet financial obligations. While negotiations between respective counsel were ongoing, Frontier filed an action against Lessor in Boulder County District Court for preventing Frontier 'possession' of Lessor's land during the negotiating process. The matter necessitated the filing of a counterclaim by Petitioners. Said action later was required by Frontier to be dismissed through terms included in Section 14. of said Settlement Agreement.

Seeking the advise of counsel, Paul Rubner, of 'Rubner and Kutner, P.C.', specialists in bankruptcy, and upon advice of said counsel, on January 21, 1986, Petitioners filed for reorganization under Title 11 of the United

States Code and assigned Number 86 B 0476 G. Counsel assured Petitioners that through reorganization, rejection of the mining lease with Frontier Materials, Inc., would place them in a position to directly commence mining of their property. Said mining would enable Petitioners to meet their financial commitments to their respective creditors. Further, counsel Rubner stated that he would have the Petitioners in a position to commence mining within three (3) months, or April 21, 1986. Although Rubner stated that $8,000 would be sufficient to cover all reorganization costs, a total of $15,000 was ultimately requested as retainer for "any unexpected costs". Any balance remaining would pay petitioners 'interest' from counsel's company account.

Not explained to Petitioners by counsel, before filing of the Bankruptcy Petition, was that the law prevented Petitioners from keeping

installment accounts current, deprived Petitioners of certain litigation rights, and, that by not keeping accounts current and said accounts being forced into arrears, creditors were permitted to file for 'relief from automatic stay', which, if granted, Petitioners would lose whatever equity in the property they may have. The ranch of 503 Acres (item No. 2., hereinabove listed) in Oklahoma was lost in this manner - an equity loss of $152,000.

Frontier refused to allow the lease to be rejected and filed objections with the court. Failing to effect a resolution, a Court hearing was set for August 28, 1986. One week before the hearing, both counsels Paul Rubner and Lee Kutner, made a conference call to Petitioners wherein it was stated by counsel, that; 1) they had "used" the $15,000 retainer; and 2) for them to represent us at trial of the matter, petitioners would be required to advance another

$15,000; or 3) having negotiated a 'settlement with former associate', Harry M. Sterling, Frontier's counsel, Petitioners must execute said "Settlement Agreement" for continued representation by the firm of Rubner and Kutner, P.C.; or 4) counsel stated they would file a motion to withdraw as counsel.

Petitioners protested their concern for being required to pay $215,000 to Frontier for its violation of the lease and its refusal to perform to agreement. As an inducement, Frontier represented that all mining requirements and authorizations were complete. Counsel assured petitioners they would be fully protected by the court, since it would be a "court-approved document", and further, that mining operations plans could be conducted by Petitioners without further interference from Frontier. Petitioner R. W. Gregory, having no other known alternative, surrendered to these threats and,

on August 21, 1986, he agreed to pay to Frontier $215,000 for, inter alia, the right to pursue reorganization and mining without interference from Frontier.

On September 8, 1986, U. S. Bankruptcy Court Judge Charles E. Matheson presiding, reviewed and approved the Settlement Agreement, approved the $215,000 additional debt, affixed his signature to the Agreement, and authorized Petitioners to proceed as necessary to consummate the Agreement [Appendix "N"].

NOTE: After executing Said Settlement Agreement, it was learned, early-on, that Frontier had fraudulently misrepresented the status of the mining permits and did not have all necessary permits, and that Frontier was in violation of the regulations and 'commitments of record', and that Frontier failed to perform pursuant to County regulations and orders. Frontier acted to cancel the mining bond included in Settlement

Agreement, and later attempted to cause cancellation of the later 'Petitioners acquired' Boulder County mining permits. These false representations, vexatious and malicious acts caused further unexpected and extensive delay, but Petitioners corrected all Frontier deficiencies and provided <u>further commitments at great cost</u>.

With the authority granted by the Court, Petitioners proceeded to do all as necessary for 'confirmation' and to commence the mining project and; 1) obtained investors in the project, [through endeavors by their Son, R. W. Gregory, Jr.];

2) engaged experienced personnel to accomplish the pre-mining preparations and mining operations;

3) prepared the property for mining;

4) built roads in to the mining site;

5) fenced the mining area pursuant to agreement;

6) installed truck scales and scalehouse;

7) acquired mining equipment; and

8) acquired all necessary Colorado State and Boulder County permits.

Petitioners were ready to produce commercial quantities of quality aggregates on or before March 20, 1988.

Frontier violated and breached further Settlement Agreement provisos more fully described in Appendix "O-1 and O-2".

The Court did not act to protect Petitioners by enforcing terms (Section 10.) of said Agreement, but rather, subtly acted to promote and encourage Frontier to act to defeat terms of the Settlement Agreement. Petitioners, through counsel, objected to Frontier's acts which were contrary to intent of the Settlement, but the court, disregarding direct objection by

Petitioners counsel, ruled against Petitioners and allowed Frontier to continue their opposition to the plan proposed by Petitioners.

On February 26, 1988, the Court denied 'confirmation' of the plan of reorganization and, Sua Sponte, 'converted' the Chapter 11 Reorganization case to one under Chapter 7 Liquidation.

Petitioners Counsel, Philip A. Pearlman, stated to Petitioners that the ruling by Judge Matheson was unfair and wrong, but he would not take the 'appeal' without further payment. Having exhausted all savings on reorganization and being denied the right to generate income, having exhausted their retirement funds, and without any income, Petitioners were committed to pursuing their cause - Pro Se.

NOTE: Here, to provide some background to the concept of bankruptcy among lawyers practicing in the District of Colorado, together with the

practices of the Bankruptcy Court for the District of Colorado, the intent of Title 11 of the Bankruptcy Code requires some inquiry. The following statement is an excerpt from a seminar on bankruptcy as taught by Sidney B. Brooks, (now Bankruptcy Judge in the District of Colorado and to whom Petitioners case has been assigned) together with an expanded statement by Petitioners which is supported by the record.

1. "...your (debtor) clients will lie..."

a. This statement and attitude toward debtors is an automatic bar to fair, impartial, and unbiased treatment of all debtors and is clearly indicative of prejudice toward debtors and bias for creditors within the court system for the District of Colorado.

On March 15, 1988, Petitioners filed Notice of Appeal from the 'Order of Conversion' to the United States District Court for the District of Colorado. The Bankruptcy Court included a "note"

to the District court that "the appeal was not timely filed" [Appendix "R"]. On March 31, 1988, Judge Sherman G. Finesilver, (a judge with an extensive list of credentials and experience) coincidentally but contrary to rules and law, denied Petitioners appeal as "not being timely filed", which order required further appeal.

On April 14, 1988, Judge Matheson, responding to Frontier's Motion to Dismiss, denied the Motion for Stay Pending Appeal as 'Moot" because the United States District Court had denied Petitioners their appeal.

In April 1988, Petitioners filed a Notice of Appeal to the Court of Appeals for the Tenth Circuit, appealing the dismissal of their appeal in United States District Court from decisions of the Bankruptcy Court. On February 22, 1989, said Court of Appeals reversed the lower court decision and reinstated Petitioners appeal, but such reversal was not in time to prevent the

December 9, 1988 sale by Judge Matheson and subsequent loss of Petitioners most valuable property necessary for reorganization.

At the December 9, 1988 hearing, the Court quashed a subpoena and deprived Petitioners of needed information regarding testimony presented by Frontier and their appraiser. During this hearing, and during an extended absence by applicant Ross J. Wabeke, alleged Interim Trustee, the Court permitted Frontier to prosecute the application during the absence of the applicant.

NOTE: The record does not reflect an Order appointing Wabeke as trustee pursuant to 11 USC 303(g), which states:

"(g) At any time after the commencement of an involuntary case under chapter 7 of this title but before an order for relief in the case, the court, on request of a party in interest, after notice to the debtor and hearing, and if necessary to preserve the property of the estate or to prevent loss to the estate, may order the United States Trustee to appoint an interim trustee..."

and Bankruptcy Rules 2008, supporting Section

303(g), and X-1004 specifying trustee's bond, the record does not reflect the filing of an approved bond by Wabeke.

Bankruptcy Rule 5003(a) states:

"the clerk shall keep a docket in each case under the Code and shall enter thereon each judgment, order, and activity in that case as prescribed by the Director of the Administrative Office of the United States Courts. The entry of a judgment or order in a docket shall show the date the entry is made." (Emphasis Added)

On December 9, 1988, over objections of Petitioners, U. S. Bankruptcy Court Judge Matheson approved the application of Wabeke to sell to Frontier for $845,000 the valuable mining property necessary for reorganization, and included with the sale $120,000 augmentation water rights, all other water rights, all mining permits acquired by Petitioners, notwithstanding Wabeke had rejected the Settlement Agreement by reason of non-action and pursuant to 11 USC 365(d)(1) which states:

"In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal

property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected."

Wabeke sold Petitioners rights and interest in the Court-approved Settlement Agreement and executory contract he 'rejected'. Wabeke's appointment cannot be confirmed and both Wabeke and U. S. Trustee have denied Petitioners the right to examine the Petitioners file, pursuant to 18 USC 154 [Appendix "F-1"] and 11 USC 704(7) [Appendix "D"], as compiled by Wabeke. Further, Wabeke has a current motion filed with the Bankruptcy Court seeking for authority to deny Petitioners access to said file. It must be called to the attention of this Court, that the $845,000 sale price, less $120,000 'paid for' water stock, less $50,000 cash all paid by Petitioners pursuant to "Settlement Agreement, less $185,000 credited balance of the 'thin air/$215,000' debt creation, less the legal and

regulatory costs for all required mining related permits, that the actual price paid by Frontier Materials, Inc. for the $3,543,000 property was less than $490,000 - or a shocking 13.8% of its minimal value. Such approval was granted by the court disregarding a better 'standing' offer as presented from the courtroom, ($300,000 more to Creditor Grange, who refused the offer) than Wabeke's application. Said 'offer' also allowed Petitioners to retain the ownership of the residential properties appraised at $255,000.00 together with a salaried position as an executive officer of said mining parcel within a composite mining group.

On December 9, 1988, it was discovered through "personal 'handwritten' notes" made by Judge Matheson (in exhibit package returned by the court) that during the course of said confirmation hearing on February 26, 1988, and subsequent thereto, Bankruptcy Judge Charles E.

Matheson, harbored personal prejudice and bias against Petitioners and he failed an ethical requirement to recuse pursuant to 28 USC 455. Said notes contained prejudicial descriptions and comments against Petitioner R. W. Gregory. Said 'notes' were not obtained from the testimony nor from evidence presented. Gregory testimony, as stated, was that: he had been an airline pilot with Frontier Airlines for 25 years; he owned a general store, restaurant and lounge; he owned and operated 3 ranches whereon he raised cattle and buffalo; and he was of Native American Heritage - Delaware Nation. Said 'notes' described "Gregory an airline jockey, bartender, and buffalo humper:" To Petitioners' counsel's closing statements, the 'notes' reflect the statement "Pearlman - SHUT UP!".

"Any...judge...in bankruptcy of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 USCS 455(a)

"...any judge...shall disqualify himself in a bankruptcy case under certain conditions

involving interest or an appearance of influence." Bankruptcy Rule 5004

Said personal prejudice and bias deprived Petitioners of fair and impartial hearings, rights and property not in accordance with law.

Pursuant to this new discovery, Petitioners filed the following: On December 19, 1988, 'Motion for New Trial'; On December 30, 1988, 'Motion to Disqualify Judge'; and on January 9, 1989, 'Motion to Transfer Proceedings'.

On January 3, 1989, Judge Matheson, after passing on said motion, recused pursuant to the 28 USC 144 motion.

On January 12, 1989, a Writ of Prohibition was sought from the Court of Appeals for the Tenth Circuit to prevent acts contrary to Local Rule 23 and law. Said Writ was denied by Court of Appeals.

On January 13, 1989, and not in accordance with local Rule 23, the motions for 'New Trial' and 'Transfer of Proceedings' were denied by

Bankruptcy Judge Sidney Brooks, newly assigned.

Petitioners appealed to the United States District Court from the denial of new trial, denial of transfer of proceedings and from the sale of estate property.

A Motion for Temporary Injunction was filed in the Court of Appeals for the Tenth Circuit for immediate relief from the acts hereinabove described.

On February 22, 1989, the Court of Appeals reinstated Petitioners original appeal from conversion to Chapter 7 from Chapter 11 but the court refused to grant the temporary injunction motion describing it as "moot".

On February 27, 1989, because of the 'reinstated appeal', Petitioners filed a "Renewed Motion For Stay Pending Appeal".

On March 1, 1989, Frontier filed a "Demand for Possession" for said reorganization property as sold on December 9, 1988 by Judge Matheson.

On March 6, 1989, Petitioners responded by filing a Motion for Temporary and Permanent Injunction with United States District Court.

On March 17, 1989, Judge Finesilver denied said motion for injunction. Coincidentally, on March 17, 1989, Boulder County District Court denied Petitioners Motion to Dismiss Frontier's action to gain possession of said property.

On March 21, 1989, United States Bankruptcy Judge Brooks denied Petitioners motion for Renewed Stay Pending Appeal. Further, Judge Brooks violated Bankruptcy Rule 5001(a) by threatening Petitioners with sanctions if they filed any further papers in the bankruptcy court in defense of their property and rights, thus depriving Petitioners of their Fifth and Fourteenth Amendment rights of access to the courts and due process.

On March 29, 1989, Petitioners filed "Petition for Removal of Civil Action" from

Boulder County District Court to United States District Court seeking a trial by jury in the matter of the "Demand For Possession".

On March 31, 1989, Judge Finesilver of the United States District Court referenced said petition for 'removal and jury trial' to the Bankruptcy Court where Petitioners in April 1988 had previously been denied "standing" and on March 21, 1989, threatened with "sanctions" if Debtors filed further "papers", etc. Through said 'reference' by the District Court, denial of "standing" and "threats" by Bankruptcy Court, Petitioners were deprived of access to the Courts, jury trial, and due process for which to act in defense of their rights and property.

On April 7, 1989, Petitioners filed a "Notice of Intent to Redeem" property of the estate necessary for reorganization (to which Wabeke, Frontier, and Grange objected). On April 13, 1989, Petitioners filed a "Motion to

Dismiss" the bankruptcy proceedings (to which motion objections by Skeen and Pearlman, P.C. were entered by Philip Pearlman, Petitioners' former attorney, and Wabeke).

On April 24, 1989, notice was received that Wabeke had illegally claimed and confiscated a $31,554 'mining bond' Certificate of Deposit - not property of the estate - which had been posted by Petitioners son, from his bank account bearing his social security number, on behalf of investors in said proposed mining project.

On April 25, 1989, an Order was entered on the docket allowing sanctions against Petitioners.

On April 29, 1989, Petitioners received notice of a "Writ of Restitution" and 'Default Judgment' issued by Judge Patricia A. Clark of the Bankruptcy Court on behalf of Frontier. On May 1, 1989, Petitioners filed a Notice of Appeal from the final judgment wherein

Petitioners were adjudged in "Default" for non-appearance in a court where the judges denied standing, and allowed sanctions for acts defending their property.

On May 15, 1989, Petitioners were forcibly removed from their 'reorganization' property, rendered homeless, forced into insolvency, and deprived of means for support.

On July 31, 1989, United States District Court Judge Finesilver, having on March 31, 1988 denied Petitioners their appeal from February 26, 1988 conversion, entered his "Memorandum Opinion and Order" AFFIRMING the Bankruptcy Court decisions of conversion; December 9, 1988 sale of estate property; January 13, 1989 improper Order denying transfer of the proceeding; declared the objection to sale of the debtors' property as "moot"; and refused to rule on remaining issues contending that debtors failed to litigate said issues. From this

ruling, an appeal to Court of Appeals for the Tenth Circuit was commenced.

Petitioners were represented by two separate law firms between the January 21, 1986 and February 26, 1988 dates of the bankruptcy proceedings, but they were not kept fully informed by counsel of the bankruptcy proceedings; nor informed as to the ramifications of the proceedings; nor would counsel act on their request to defend their position as to the procedures and collusion being implemented against them by their adversaries and the Court. Further, counsel Pearlman was never given the authority by Debtors to act in any matter approving or recommending conversion, and he was specifically cautioned orally and in writing not to waive any rights of the Petitioners.

Petitioners, since February 26, 1988 and being required to proceed pro se, have attempted

to learn, conduct their own research and studies necessary to pursue the defense of their lives, liberties and property as free citizens of the United States.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for several reasons as follows: The existence of fraud consistent with 18 USC 1961 [Appendix "F-2"]; issues created by an act of Congress - Title 11 of the Bankruptcy Code - with sections in conflict with Constitutional and Statutory prerequisites; deprivation of rights guaranteed by the United States Constitution; and a conflict between the Code and appointments of judges whose prejudicial foundations do not meet standards necessary for fair and impartial rulings concerning all debtors subject to the Bankruptcy Court systems, and by implication, whose decisions are contrary to the intent of the Acts of Congress.

As to statutory conflict, Legislative statements regarding Title 11 of the United States Code, from HR 5316, states:

"The sooner a bankruptcy case can be terminated, the sooner the debtor can get a fresh start towards making a meaningful contribution to our nation's economy, and the sooner creditors can receive payments of debts owed them." [Emphasis added]

Termination appears to be interpreted by the Bankruptcy Court in the District of Colorado by throwing the debtor into Chapter 7 liquidation rather than allowing reorganization and confirmation, thus preventing creditor payments 'in full' and preventing the intent of Chapter 11 reorganization law.

This same report also states the only qualifications for a bankruptcy judge, simply are as follows:

"Under current law, in order to qualify to be bankruptcy judge, an individual must be a member of the bar of one of the 50 states or the District of Columbia", or Puerto Rico.

This law appears to lack important ingredient requirements of "impartiality" and "fairness". Inquiry into the appointments of the bankruptcy judges in the District of Colorado reveal a tendency to appoint judges who emanate from 'creditor-oriented' law firms' (e.g. Judges Matheson and Brooks) to rule on 'debtor-oriented' problems. By 'creditor-oriented' is meant that this type of law firm will represent only "creditor" clients. Therefore, the debtor is faced immediately with judicial inclination of prejudice against a debtor and bias towards a creditor, which attitude then is to disregard the intent of the Bankruptcy Code. For a debtor to overcome that judicial "inclination" in the District of Colorado is a virtual impossibility. To explain, in the District of Colorado, between January 1986 and February 1988, the number of Chapter 11 Reorganization Cases before Judge Charles E. Matheson were 221, Chapter 12 cases

numbered 28, with 145 cases still open, One - Chapter 11 case had been confirmed, 99 cases had been dismissed or converted, and 4 had been settled.

1%, or less, of Chapter 11 cases filed are being confirmed, hardly in line with a law inducing one to seek protection of the Code, which was designed to provide a means for debtor reorganization and to enable one to service their financial obligations. Rather, as in this instant case, it has been one of design to grant 'favored status' to Frontier Materials, Inc. and maliciously, knowingly and willfully force insolvency and to totally financially decimate any means for Debtors to meet financial obligations, including survival, through a botched and incompetent liquidation process.

"Since the policy of Chapter 11 is to permit successful rehabilitation of debtors... Determining what would constitute a successful rehabilitation involves balancing the interests of the debtor, creditors,...and in striking the balance the court must consider not only the hardship faced by each party but also the

qualitative differences between the types of hardship each may face."

N.L.R.B v. Bildisco and Bildisco, 104 S.Ct. 1188, 1190 (1.(c)) (1984).

Again, in this instant case, the Bankruptcy Code as implemented by the Colorado Courts, failed dramatically as to the intent of said Code. As of the date of this Petition for Writ of Certiorari, only one creditor is known to have been provided with any compensation (Grange) plus the illegal acts and gains of Wabeke, and Petitioners adversary, Frontier Materials, Inc., who was creditor 'created' by the "Settlement Agreement", an agreement devised after filing Chapter 11 and obtained through intimidation. Disregarding said Settlement Agreement, and with the assistance of said bankruptcy court, Frontier was granted insider status, and through acts contrary to said Agreement, was presented with the opportunity to acquire the most valuable debtor property at a fraction of its true value. All parties in

interest suffered because the Court favored this one "creditor" over all other creditors, and further, deprived Debtors of the rights which were to be accorded them pursuant to said Settlement Agreement and the rights to be accorded them under the intent of Chapter 11.

Said Settlement Agreement, unknown to Petitioners at the time, was granted contrary to the intent of the Code and not in accordance with law of 11 USC 362(a) [Appendix "D"].

The act forced upon debtors by counsel to execute the Settlement Agreement, approval by the Court, and the Order by the Court authorizing Debtors to "take such actions as are necessary and convenient to consummate the Settlement" were contrary to the hereinabove quoted law. Said law - 11 USC 362 - is further clarified by the House and Senate Reports (Reform Act of 1978), as follows:

"Paragraph (4) stays lien creation against property of the estate. Thus taking possession to perfect a lien or obtaining court process is

prohibited. To permit lien creation after bankruptcy would give certain creditors preferential treatment by making them secured instead unsecured." (including the creation of a creditor) [Emphasis and parenthetical added]

Although there were supposedly protective clauses in said illegal Settlement Agreement for the benefit of Debtor, the Court allowed any protective clauses to be abrogated by Frontier Materials, Inc. Said abrogation was the direct cause of the loss of debtors property without due process of law and in violation of law together with the loss of investments made by others not subject to the jurisdiction of said court. Judge Brooks later denied said investors, through fiduciary R. W. Gregory, Jr., the right to intervene to protect their interests. Further, Judge Brooks permitted Wabeke to control, convert, and/or sell to Frontier equipment valued at $330,000 for $41,000, these investor assets contrary to Bankruptcy Rule 2018(a) [Appendix "P"] and 11 USC 1109(b)

[Appendix "D"].

At the sale of Debtors property on December 9, 1988, Judge Matheson, incorporating statements made by Frontier Materials, Inc. counsel, not in evidence nor under oath, incorrectly and not admitted in the record, wrongly stated and ruled, as follows:

"The property was encumbered by a mining lease...a lease which the debtors elected to reject...that the rejection was in bad faith ... for the sole purpose to secure additional profits for himself... "

Judge Matheson continued his statement, opinion, and admission to violating 11 USC 362(a)(4):

"That controversy was resolved by way of a settlement, the execution of a note secured by a second deed of trust on the property to Frontier Materials. The present balance outstanding on that note is approximately $185,000, and I concur with the argument of counsel for Frontier Materials that since that was a note issued out of the debtor-in-possession's estate in settlement of a controversy post-petition, that $185,000 ($215,000 less $50,000 paid in 1987) undoubtedly was an administrative claim, at least in the Chapter 11 estate, which now converted, would be second in priority to the administrative claims in the Chapter 7 estate."

[Dec. 9, 1988 Transcript, p.3, l. 7-25; p.4, l. 1-4]

The United States District Court, in its July 31, 1989 Memorandum Opinion and Order, stated that it could not review the issues of the "Settlement Agreement" and "bad faith" since they were not raised in Bankruptcy Court. Yet the direct testimony of the Debtor, the issue of the "breach" of the Settlement Agreement, the attempts to thwart Debtors' reorganization, and the issue of "bad faith" and "fraudulent misrepresentation" by Frontier Materials, Inc. was given at length. Frontier, under the right to cross examine said Debtor, chose not to contest the issues presented and remained silent, thereby acknowledging that the testimony, as was given under oath, was fact, also knowing that the charges were readily provable by Debtor. The Court chose not to inquire into Debtor's sworn testimony with regard to the charges against Frontier. Additionally, 18 USC 3057 [Appendix "F-2"] was

available to Judge Matheson to conduct an inquiry into said allegations.

Petitioners believe that Judge Finesilver had every authority to investigate the fraudulent acts permeating said case, and such Opinion and Order is then in conflict with 18 USC 3057 dealing with the authority and powers of the court.

Regardless of the efforts or money expended, the petition of any debtor is generally denied - unless the petitioner is in a class of great financial eminence.

For example, the rulings of the bankruptcy court in the District of Colorado are generally in conformity to teachings from the hereinbefore-mentioned seminar for other lawyers, by Judge Brooks prior to his appointment i.e. that: (1) "the Bankruptcy Code is designed to protect debtors"; and that (2) "the court is designed to be there to help the

debtors". But, in reality, while professing one thing of support for the law, there is also the revelation that the power of the court carries the threatening and summary punishment of debtors out of favor with the court. Judge Brooks' further statement, "a bar from discharge is a" (form) "of financial capital punishment" (which) "will ruin the" (debtor for) "the rest of their lives" (and) "they will never once again get back on their financial feet" (because this power is) "discretionary with the court" (when) "not in good faith" appears as a veiled threat to all petitioners.

Now, if all debtors are considered "liars", then what amount of effort can ever convince a court prejudiced with this 'debtor concept' that the debtor is sincere and operating in "good faith"? And with said concept, a debtor defending his rights is then always subject to suffering the wrath and punishment of the judge.

Permitting debtor additional, and substantial, debt (which originated with intimidation and threat by counsel) by authorizing a Settlement Agreement which 'created a new creditor' (to the detriment of the Estate and legitimate creditors) and then later refusing to enforce the provisions and terms of said Agreement, Judge Matheson operated in violation of law - 11 USC 362 - and of the intent of Congress and of debtors' rights.

To convert Debtors from Chapter 11 reorganization to Chapter 7 Liquidation Sua Sponte was a violation of law and an abuse of power and discretion. Judge Finesilver ruled that 11 USC 105(a) was the court's power for Sua Sponte rulings by the bankruptcy court. But 11 USC 105(a) clearly states that this broad power is to be exercised

"...to enforce or implement court orders or rules, or to prevent an abuse of process."

There was no evidence or indication that

Debtors were abusing the process or violating any court order or rule, nor was there a charge to that effect, and contrary to Federal Rules of Evidence 602 and 803 [Appendix "Q"] the court excluded financial evidence supporting the confirmation. Said evidence included (1) two letters of intent to purchase significant amounts of aggregate products; (2) signature pages on proposed Limited Partnership Agreement where signatories had already advanced the funds to purchase hereinbefore mentioned equipment; and (3) testimony from investor Rolf Schwenninger of AMBS Trust, who was unable to attend because of overbooked flights (Judge Matheson refused to continue this important hearing from Friday, February 26, 1986 to Monday, March 1, 1986 to obtain said testimony). All of the foregoing, through sustained objections made by Frontier, excluded this evidence notwithstanding personal knowledge as

testified to by witness R. W. Gregory.

Yet, the court refused to act where there was cause to exercise 11 USC 105(a) where efforts which not only 'threatened' the debtors' ability to reorganize, but actual and specific schemed acts by Frontier, designed to not only "threaten", but to prevent Debtors ability to reorganize.

"Section 105 authorizes injunction of litigation which could threaten a debtor's ability to reorganize."
In re A.H. Robins Co., Inc., 828 F2d 1023 (CA4 1987);
A. H. Robins Co., Inc. v. Piccinin, 788 F2d 994 (CA4 1986);

The Debtors' assets far exceeded the debts in the case and there was no proof or testimony that the Estate was diminishing in a manner sufficient to exercise the power of Sua Sponte conversion.

"Bankruptcy Court abused its discretion in enjoining...proceeding which did not represent threat to assets of the debtor."
In re Tucson Yellow Cab Co., Inc., 10 BCD 217, 27 BR 621 (Bankr App Panel 9th Cir, 1983)

Additionally, in reference to conversion, 11 USC 1112(b) specifically states that "...on request of a party in interest...and after notice and hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause..." (Emphasis added)

No party in interest requested conversion. Grange requested dismissal (2/26/88 Transcript - p.68, l.5). No logical cause was specified or charged. The Court, contrary to 11 USC 1112(b), exhibiting "bias" (Grange statement number "(1)" in their Answer to Appellants' Opening Brief/ 89-F-428) for Frontier, converted the case from chapter 11 to chapter 7, Sua Sponte.

Conspiracy between the Bankruptcy Court and United States District Court For the District of Colorado is evident in the "note" incorrectly and improperly added by the Bankruptcy Court "advising" the United States District Court that the appeal from conversion had not been timely filed. As hereinbefore mentioned, Chief Judge

Sherman G. Finesilver, a judge with years of experience in law, ignoring (two times) the simple and commonly used 'time computation' Bankruptcy Rules 8002(a) and 9006(a), ruled on March 31, 1988, that Debtors "untimely filing" of appeal deprived said court of jurisdiction (88-F-428) and the Bankruptcy Court denied a "Stay Pending Appeal" as "moot". Said ruling required an appeal to the Court of Appeals for the Tenth Circuit. Said Court reversed and reinstated said appeal on February 22, 1989.

In the meantime, the delay caused by said alleged conspiracy enabled the Bankruptcy Court, on December 9, 1988, in collusion with Frontier and Grange, over the objections of Debtors, and contrary to the evidence, to dispose of Debtors most valuable property, which was the mining property necessary for reorganization, and set the stage for the complete destruction of Petitioners' estate.

"Decision of court to exclude evidence is

inconsistent with substantial justice."
Federal Rules of Evidence 103 [Appendix "Q"]
U.S. v. Long, (1978 CA3 574 F2d 761, 99 S.Ct. 577.
Whitehurst v. Wright, (1979 CA5 Ala) 592 F2d 834.

18 USC 241 [Appendix "F-1"] states, in part, as follows:

"...makes conspiracy to interfere with a citizen's free exercise of any right or privilege secured by the Constitution or the laws of the United States a criminal offense."

In a 42 USC 1983 case it was stated as follows:

"A person establishes liability under "1983" by showing that defendants either personally participated in the deprivation of the plaintiff's rights, or caused such a deprivation to occur. (Emphasis added)
Harris v. City of Roseburg, (1981 CA9) 664 F2d 1121.

"...immunity defense be overruled...which could authorize liability where the official has acted with 'malicious intention' to deprive the plaintiff of a constitutional right or to cause him 'other injury'. This part of the rule speaks of 'intentional injury', contemplating that the actor intends the consequences of his conduct."
Procunier v. Navette, 434 US 555, 98 S.Ct. 855.

42 USC 1985(3) states, in part:

"...in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or

property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured may have an action for recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators."

The foregoing described acts of conspiracy and collusion, and acts designed to interfere with the intent of the Bankruptcy Code and the Constitution and Laws of the United States, more than sufficient for enacting 18 USC 3057 [Appendix "F"] have all been clearly brought to the attention of to the Courts within the District of Colorado.

Petitioners qualified under the Minority Business Enterprise program of the State of Colorado as 'one of 3' known businesses so qualifying as an aggregate producer in the State. The acts of antitrust (within the meaning and intent of 15 USC 15 [Appendix "E"]), fraud, fraudulent misrepresentation, collusion by the hereinbefore named parties were acts further prohibited under 18 USC 245(b) [Appendix "F"].

Said acts as described have deprived Petitioners of Constitutional rights, property, sales, profits and investment.

In an effort to seek a redress of grievances and recovery, Debtors filed an action against Frontier Materials, Inc. in Weld County, Colorado District Court, seeking a jury trial on the issues of breaches of the Settlement Agreement. Bankruptcy Court, Judge Sidney B. Brooks presiding, responding to Wabeke's motion to replace Debtors as plaintiffs, deprived Debtors of relief in the State Court action, wherein a jury trial was demanded, "Ordered" Debtors to proceed only in the Bankruptcy Court, which harbored personal prejudice and bias against Debtors, and had threatened Debtors not to file further papers, etc., or be subject to sanctions, and where a jury trial cannot be had as demanded, all being contrary to the First [Appendix "G"] Fifth [Appendix "I"], Seventh

[Appendix "J"] and Fourteenth Amendments [Appendix "L"] to the United States Constitution.

Ongoing activities within Bankruptcy Case 86 B 0476 A are as follows:

1. The Bankruptcy Court sold the Wyoming commercial property on April 27, 1990. Petitioners appealed the ruling. The cause for appeal follows:

a. Petitioners did not receive timely notice of the 'application' to sell said commercial property located in Wyoming. On April 27, 1990, upon learning of the intent to so sell, Petitioners filed a handwritten objection to the sale price as applied for, and recommended that any sale be by public auction - since said application price was only approximately $53,000. As hereinbefore mentioned, Petitioners purchased said property in 1978 for $100,000, then they remodeled, added

another building, a western facade, etc. which said improvements commanded an appraisal in 1981 of $450,000.

Said property was sold by Order of Judge Brooks. Petitioners objection was not entered into the record. Petitioners filed an appeal to the United States Court of Appeals. Said appeal was sent to the United States District Court and Judge Jim Carrigan.

The United States District Court denied Petitioners appeal because of Judge Brooks September 20, 1990 Order denying Petitioners Designation Of Record transcript until Petitioners paid in full a transcript fee for the hearing of April 27, 1990. But, it was learned, that no hearing was held on April 27, 1990, since Judge Brooks was not sitting on said date. Therefore no transcript could be made. Such manipulation to deprive Petitioners of their rights is now under appeal to the Court of

Appeals for the Tenth Circuit.

Consistent with the foregoing activities, notwithstanding of Wabeke's seizure of the Investors mining bond in the amount of $31,554 and the seizure and sale for $41,000 of investors mining equipment valued at $330,000, Wabeke, in September 1990 and in violation of 11 USC 362, 11 USC 363(d), and 11 USC 363(f), did, without a search warrant or court order or other authorization, in violation of 18 USC 3109 [Appendix "F-2"] and Fourth Amendment to the United States Constitution [Appendix "H"], break into the Petitioners home used by virtue of agreement with creditor Frontier Airlines Federal Credit Union, who had obtained a relief from the automatic stay on September 5, 1989, and which said relief from stay "terminated" the control of the Bankruptcy Court over said property. After breaking into Petitioners' home, Wabeke and Petitioners' long standing adversary,

William Sanders of Centennial, Wyoming, proceeded to change the locks on the premises, posted signs stating "U. S. Property - No Trespassing", placed locks on gates on property owned by Petitioners two brothers, thus depriving them access to their property - their property never being under control of the bankruptcy court.

On March 20, 1991 it was determined that Wabeke's acts did not have the force of law. On March 20, 1991, Petitioners re-established their rights and presence in their home after written notification to Wabeke and personal visit to the Sheriff of Albany County, Wyoming. Upon re-establishing their presence in their home, it was discovered that Wabeke and/or his agent Sanders, among other things, (1) had turned the heat off causing canned food to freeze and explode over two rooms and water systems to freeze and rupture, had disconnected the food

freezers causing the food to spoil; (2) had seized certain personal and private papers; (3) had taken certain private possessions belonging to Petitioners and other members of Petitioners' family. Further, Wabeke currently is interfering with negotiations by Ron W. Gregory, Jr. to purchase said property from said creditor Bellco Credit Union, successor to Frontier Airlines Federal Credit Union and is demanding $5,000 to 'release' said property from "bankruptcy control". In addition, Wabeke's agent Sanders, contrary to the Code, has made an offer to purchase said property from Bellco through a 'strawman'.

To act to protect their rights and property, Petitioners have been required to file motions in the Bankruptcy Court to remove Wabeke as trustee; to transfer case to Wyoming; to disqualify judge for prejudice and bias; and in the Court of Appeals for the Tenth Circuit, to

appeal from denials by United States District Court of appeal from said April 27, 1990 sale of commercial property and deprivation of action against hereinbefore mentioned federal judges and Wabeke. All were denied.

BASIC POINTS:

1. On February 26, 1988 Petitioners were absolutely ready to commence mining operations.

2. The testimony before the Bankruptcy Court was that the operation was ready and the following had been obtained:

a. all necessary equipment;

b. all mining permits;

c. the Minority Business Enterprise certificate;

d. all augmentation water;

e. pre-mining preparations were under construction or completed;

f. commitments from two companies for material orders (valued from $700,000 to

$1,200,000 - depending on type of aggregate);

g. numerous requests to bid on forthcoming projects.

There was only one active entity (Frontier) and one passive entity (Grange) contradicting, objecting and opposing the reorganization plan/confirmation, coincidentally and strangely, with one 'creditor' voting against Confirmation - first and former counsel, Rubner and Kutner, P.C.. Frontier coveted Petitioners land, engaged in fraud, antitrust [Appendix "E"], and breach of contract activities [Appendix "O"] to prevent the start-up of the mining operation through defeat of confirmation. Frontier presented no testimony, no witnesses nor evidence in opposition to the plan. The only testimony was by Frontier counsel, in the statement - "they can't do it".

As hereinbefore described, Bankruptcy Judge Matheson was prejudiced against Petitioners and

biased for Frontier. The prevailing attitude toward debtors, and rulings are highlighted by the judges attitudes that 'debtors are all liars'. Petitioners, although believing in the Laws and justice of the courts, never had a chance from the day the Petition was filed. Petitioners devoted their life savings and labors, the money and faith of investors, in a cause destined to be defeated by prejudice and bias within the judicial district of Colorado. A chapter 11 debtor has less than 1% chance to reorganize in the District of Colorado.

Petitioners submit that they performed only according to the Code, performed as instructed by the Code, and according to the laws permitting defense of their property and rights. Legal and professional fees of $90,000 were incurred by Debtors who believed in the intent of the Code and in the integrity of the courts. Petitioners ask why the Courts refused to

enforce the provisions of the court-approved Settlement Agreement, and particularly, where Petitioners were to be permitted to buy 17 acres and improvements on the Boulder County Property upon payment to Frontier of $100,000. Frontier accepted and kept the first $50,000 and refused to accept the 'second' $50,000. Petitioners ask why they owed Frontier anything since there was no value received for the value as given.

Title 11 of the United States Code is not being administered according to the word and intent of Congress in the District of Colorado.

Petitioners, when filing their Chapter 11 Petition, had broken no laws and faithfully followed the instructions of counsel and the court. Said act of filing said petition, and subsequent thereto, resulted in their being made 'prisoners' of the Code, who were then subjected to deprivation of rights, property and justice, and who were plunged into a nightmare

of judicial horror, humiliation and punishment rightfully characterized and prohibited by the Eighth Amendment to the United States Constitution [Appendix "K"]. Petitioners filed Chapter 11 Petition simply to be accorded the right to reorganize and the right to pay their just debts to their creditors. Petitioners did not seek a discharge of any just debt. The Disclosure Statement and Reorganization Plan clearly stated that all creditors were to receive 100 % of their claim, plus interest.

Granted, the courts have entertained Petitioners motions and efforts, but said access to the courts were, and are, more fittingly described as a sham. A supporting statement emanated from the United States Trustee's office to the effect that 'Petitioners could file their motions, but the judges in the District of Colorado were not going to grant them any relief'.

This Court should grant certiorari here to explicitly rule that Title 11 of the United States Code was not properly implemented in this case, nor is it being properly implemented in other cases within the District of Colorado, and said Code could also be improperly applied in other districts throughout the United States. Further, the prevailing prejudice of the courts in the District of Colorado should be examined to resolve the conflict between the intent of Title 11, the judicial application thereto, and the deprivations of right.

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgments and opinions of the courts in the District of Colorado and the judgment and opinion of the Court of Appeals for the Tenth Circuit in this matter, together with any other relief as this Honorable Court deems just.

Dated: April 25, 1991.

Respectfully submitted,

Ronald W. Gregory, pro se

Dorothy L. Gregory, pro se
by Ron Gregory

Mailing Address:
c/o J. Bayne
P.O. Box 29773
Thornton, CO 80229-0773

AFFIDAVIT OF SERVICE

STATE OF COLORADO)
)ss
COUNTY OF JEFFERSON)

I hereby certify that, pursuant to Rule 29.3., I served one copy of the foregoing PETITION FOR WRIT OF CERTIORARI on each of the parties herein, by depositing in the United States mail, certified mail, return receipt, or by delivering the copy personally, to the following:

Frontier Materials, Inc.
ATTN: Henry Braly
Highway 52
Erie, CO 80516

Grange Mutual Life Co.
c/o Peter McFarlane
4338 David Crum Lane
Lakeland, FL 33813

Ross J. Wabeke
325 East 7th Street
Loveland, CO 80537

United States Trustee
1845 Sherman #303
Denver, CO 80203

E.H.M.G. Consultants
Fred Paoli
535 16th Street #820
Denver, CO 80202

All known parties required to be served have been served.

_____
Ronald W. Gregory

Subscribed and sworn to before me on April _____, 1991.

_____
Notary Public
My Commission Expires_____,19____.